



**Case Summary**  
**Suai District Court**  
**March 2022**

**Statement:** The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

**JSMP** strongly condemns all forms of violence, especially against women and vulnerable persons.

JSMP maintains that there is no justification for violence against women.

**A. Summary of the trial process at the Suai District Court**

**1. Total number of cases monitored by JSMP: 17**

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	3
Article 177 of the Penal Code and Articles 2, 3 and 35 of the Law Against Domestic Violence (LADV)	Sexual abuse of a minor characterized as domestic violence	1
Articles 1757, 1758, 1759, 1762, 1765, 1786, 1782, 1804, 1805 of the Civil Code (CS)	Exercise of parental authority	1
Articles 138 & 145 (PC)	Homicide and simple offences against physical integrity	1
Article 20 (1) of the Law on Bladed Weapons	Bladed weapons	2
Article 252 of the PC	Aggravated larceny	1
Article 154 of the PC	Mistreatment of a spouse	1

Article 171 of the PC	Sexual coercion	1
Articles 172 of the PC and articles 23, 24	Attempted rape	1
Article 178 of the PC	Sexual acts with an adolescent	1
Articles 172 & 253 (PC)	Rape and robbery	1
Article 316 of the PC	Smuggling	2
Article 178 of the PC and Articles 145 and 2, 3, 35 of the LADV	Sexual acts with an adolescent and simple offences against physical integrity characterized as domestic violence	1
<b>Total</b>		<b>17</b>

## 2.Total number of decisions monitored by JSMP: 12

Types of penalties	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	4
Fine	Article 67 of the PC	3
Endorsed Agreement	Article 216 of the CPC	1
Prison sentence	Article 66 of the PC	1
Suspension of execution of a prison sentence and acquittal	Article 68 of the PC	1
Prison sentence and suspension of execution of a prison sentence	Articles 66 & 68 (PC)	
Acquitted		1
<b>Total</b>		<b>12</b>

## 3.Total cases adjourned based on JSMP monitoring: 0

## 4. Total ongoing cases based on JSMP monitoring: 5

### 1. Crime of sexual abuse of a minor characterized as domestic violence

Case Number : 0025/14.CVSUI

Composition of the Court : Panel

Judges : Samuel da Costa Pacheco, Benjamin Barros  
and Patricia de Araujo Fatima Barreto Magno Xavier

Prosecutor : Rafael Jeronimo Gusmão  
Defence : Domingos dos Santos  
Decision : 12 years in prison

On 1 March 2022 the Suai District Court announced its decision in a case of sexual abuse against a minor characterised as domestic violence, involving the defendant FX who allegedly committed the offence against his stepdaughter in Covalima District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 10 March 2014, at midnight, the victim was sound asleep in her bedroom. The defendant went into the victim's bedroom and removed her clothes, then the defendant grabbed her genitals to have sexual intercourse with the victim. The victim was startled and opened her eyes to see the defendant on top of her, the victim cried and wanted to scream however the defendant told the victim "*if you scream, you die*". The victim was afraid of the defendant's threat so she remained quiet, then the defendant had sexual intercourse with the victim until he ejaculated.

Then on an unknown day and month in 2014, late at night, the defendant again had sexual intercourse with the victim, and before he had sexual intercourse the defendant threatened the victim by saying that "*don't scream and don't tell you brothers otherwise I will kill you*". A medical report from PRADET was also attached to this case file.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape that carries a prison sentence of 5 to 15 years as well as articles 2, 3 (c), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the court did not hear the statement of the defendant, because the defendant was absent.

The victim maintained all of the facts in the indictment and stated that after the incident the victim and her uncle made a complaint to the Police-VPU and the defendant left the home and has fled and his whereabouts are unknown.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty as charged and even though he was absent, the victim confirmed all of the facts in the indictment and this was reinforced by a medical report that was included in the case file. Therefore, the public prosecutor requested for the court to impose a prison sentence of 15 years in prison against the defendant.

The defence requested for the court to provide justice to the defendant.

## **Decision**

After evaluating all of the facts, the court found that the charges had been proven, and although the defendant was absent, the victim confirmed that the defendant used threats to have sexual intercourse with the victim on two occasions and this was proven by the medical report.

Based on the facts that were proven and with consideration also of all of the circumstances surrounding this crime, therefore the court concluded this matter and sentenced the defendant to 12 years in prison.

## **2. Crime of using a bladed weapon**

Case Number : 0027/18.CVSUI  
Composition of the Court : Panel  
Judges : Samuel da Costa Pacheco, Benjamin Barros and  
Patricia de Araújo F. B. Magno Xavier  
Prosecutor : Nelson J. S. Magno  
Defence : Domingos dos Santos  
Decision : Acquitted

On 1 March 2022 the Suai District Court announced its decision in a case of using a bladed weapon involving the defendant Jose Manuel da Silva who allegedly committed the offence against the State of Timor-Leste in Covalima Municipality.

## **Charges of the Prosecutor**

The public prosecutor alleged that on 15 October 2018 the communities were in the possession of weapons such as two homemade guns, 13 bullets, a bazooka bullet and three grenades that were handed over to the defendant who was an informer in J2. When the defendant received these weapons the defendant told Brigadier Maunana about these weapons.

Then on 31 December 2018 the Timor-Leste National Police searched the home of the defendant and found the weapons inside the defendant's house, and these weapons had been given to the defendant by the communities, however the defendant did not hand them over to the institutions that look after such weapons. The defendant was an informer in J2 but he was not a member of the PNTL or FDTL.

The prosecutor alleged that the defendant violated Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons.

### **Examination of evidence**

During the trial the defendant totally confessed to the facts stated in the indictment and said that when he received these items from the communities he stored them in his house and the defendant informed Brigadier Maunana, however Brigadier Maunana told him to keep them at his home and on 6 November 2018, he should go to Suai villa and hand them over to the PNTL. The defendant added that these goods were rusty and when the PNTL came to take the weapons from the home of the defendant he did not impede them at all.

### **Final recommendations**

The public prosecutor stated that the defendant confessed to all of the facts in the indictment, and that the weapons had been handed over by the communities to the defendant however the defendant did not want to give them to the security forces, but rather he kept them at his home, and the defendant had no knowledge about these weapons and could endanger the lives of others and scare the communities who gave the weapons to the defendant, therefore the prosecutor requested for the court to use its discretion to punish the defendant.

The defence requested for the court to acquit the defendant from this crime because it was not proven.

### **Decision**

After evaluating all of the facts, the court found that the actions of the defendant did not fulfil the crime for which he was charged, and the court said that the defendant collaborated with the security forces, however the security forces under Commander Brigadier Maunana had not travelled to Suai to accompany the defendant so he could hand over the goods to the PNTL in Covalima, therefore the court concluded this matter and acquitted the defendant.

### **3. Crime of using a bladed weapon**

Case Number : 0016/20. PDSUA

Composition of the Court : Panel

Judges : Samuel da Costa Pacheco, Benjamin Barros and  
Patricia de Araújo F. B. Magno Xavier

Prosecutor : Nelson J. S. Magno

Defence : Albino de Jesus Pereira  
Decision : Prison sentence of 3 years, suspended for 3 years

On 7 March 2022 the Suai District Court announced its decision in a crime of using a bladed weapon involving the defendant Antonio da Costa Soares and the victim Abel da Conceição de Araújo, in Ainaro Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 17 December 2019, at 14:45, the victim and his children were taking a buffalo to a wake, and on the way there the victim took his horse over to drink from the river, and then the victim took his horse over to look for a place to tie it up, however suddenly the defendant jumped out and was holding a spear and took a stone and threw it at the victim, but missed, and then the defendant who was carrying a spear ran over to stab the victim in the stomach, but the victim resisted, and the spear stuck his hand and the victim suffered an injury and the victim managed to take the spear from the defendant and took it home and then made a complaint to the police.

The prosecutor alleged that the defendant violated Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons.

### **Examination of evidence**

During the trial, the defendant confessed to all of the facts in the indictment and regretted his actions, was a first time offender, and said that his behaviour was not good and promised not to repeat his actions against the victim or other person in the future.

Also the victim confirmed the facts set out in the indictment and stated that he forgave the defendant for his actions and asked for the defendant not to repeat such acts in the future.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime of using a bladed weapon, based on the confession of the defendant and the confirmation of the victim, and even though the defendant and victim have reconciled, however to deter the defendant from repeating his actions, the prosecutor requested for the court to impose a punishment of three years in prison, suspended for three years.

The defence requested for the court to issue a lenient suspended sentence against the defendant with consideration that the defendant confessed, regretted his behaviour, was a first time offender and promised not to reoffend in the future.

## **Decision**

After evaluating all of the facts, the court found that the defendant appeared with a spear in his hand and took a rock and threw it at the victim, however he missed, and then the defendant ran over with the spear to stab the victim in the stomach however the victim resisted, and the spear struck the victim on his hand which caused an injury and the victim managed to take the spear from the defendant and took it home and then made a complaint to the police.

Based on the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender and promised not to reoffend against the victim in the future, therefore, the court concluded this matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

### **4. Crime of aggravated larceny**

Case Number : 0159/18.PDSUA  
Composition of the Court : Panel  
Judges : Patricia de Araújo F. B. Magno Xavier,  
Samuel da Costa Pacheco, Benjamin Barros  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Domingos dos Santos  
Decision : Fine of US\$ 45.00

On 7 March 2022 the Suai District Court conducted a hearing to announce its decision for the crime of aggravated larceny involving the defendant Gilberto dos Santos and the victim Digno Gegrafo Gepitan, in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 6 December 2018, at 7am, the defendant took the victim's goods, namely a fridge valued at US\$250.00, an electric saw valued at US\$180.00, an electric planer valued at US\$35.00, an electric drill valued at US\$150.00, a charger valued at US\$75.00, a grinder valued at US\$50.00, a small electric drill valued at US\$45.00, 30 metres of electric cable valued at US\$60.00, a fan valued at US\$15.00, an electric kettle valued at US\$10.00, a cooker valued at US\$20.00 and a wooden crate valued at US\$50.00. The defendant's behaviour caused the victim to lose US\$ 940.00

The public prosecutor alleged that the defendant violated Article 252 of the Penal Code on aggravated larceny that carries a maximum penalty of 2-8 years in prison.

## **Examination of evidence**

During the trial the defendant stated that victim's goods were in the workplace, therefore the defendant and his friend moved the victim's goods to a hostel where they were staying. Before they moved the goods the defendant informed the victim. The defendant also declared that he did not sell those goods but at that time the aunty that cooked for the defendant and the victims gave US\$50.00 to the driver Jonas and then the driver gave US\$50.00 to the defendant. The defendant stated that he didn't know where the US\$50.00 came from, however at that time he didn't work for three months so the defendant took the money and travelled in a company car to Dili, therefore the defendant didn't know who took the victim's goods that were stored at the hostel.

Also, the victim confirmed all of the facts in the indictment and stated that at that time the job was finished, so the victim went back to Dili, but before going to Dili all of the goods at the workplace were moved by the victim and the defendant to the hostel where they were staying, and less than two weeks after the victim arrived in Dili, Luis rang the victim and said that the defendant had taken all of the goods and sold them. Therefore the victim went from Dili to Suai to collect his goods however when he arrived in Suai all of the goods were gone. The victim also stated that he paid for the hostel where they all were staying, and the victim stated that he had paid the defendant for the work they had done together.

The witness Madalena da Silva, as the owner, testified that less than two weeks after the defendant went to Dili the defendant took all of the goods from inside the house, and the witness also stated that when the goods were taken she didn't ask the defendant and to date the victim has paid for the hostel.

## **Final recommendations**

The prosecutor stated that even though the defendant denied all of the facts, the victim and witness confirmed that at that time the defendant removed the goods from the hostel and sold them, therefore the prosecutor requested for the court to impose a prison sentence on the defendant of two years, suspended for two years.

The public defender requested for the court to amend the charge from aggravated larceny to larceny and to order the victim to come to court to attempt conciliation.

## **Decision**

After evaluating all of the facts the court amended the charge from the crime of aggravated larceny to larceny because value of the goods taken by the defendant did not fulfil the requirements for the crime of aggravated larceny but rather fulfilled the



requirements for the crime of larceny as the court found the defendant guilty of taking the victim's goods, namely a fridge valued at US\$250.00, an electric saw valued at US\$180.00, an electric planer valued at US\$35.00, an electric drill valued at US\$150.00, a charger value at US\$75.00, a grinder valued at US\$50.00, a small electric drill valued at US\$45.00, 30 metres of electrical cable valued at US\$60.00, a fan valued at US\$15.00, an electric kettle valued at US\$10.00, a cooker valued at US\$20.00 and a wooden crate valued at US\$50.00. The defendant's behaviour caused the victim to suffer a loss of US\$ 940.00

Based on the facts that were proven, the court concluded this matter and ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of US 50 cents for 90 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

## **5. Crime of smuggling**

Case Number : 0038/21. CVSLL  
Composition of the Court : Panel  
Judges : Samuel da Costa Pacheco, Dr. Benjamin Barros and  
Patricia de Araújo F. B. Magno Xavier  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Angelmo Pinto  
Decision : Fine of US\$30.00

On 8 March 2022 the Suai District Court announced its decision in a case of smuggling involving the defendants Cristina Moniz and Elisa Cardozo who allegedly committed the offence against the State of Timor-Leste in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 19 November 2021, at 12:00 pm, the two defendants imported 35 kilos of dried fish illegally via Mota Masin to Timor-Leste, to be sold in Suai Villa, however a member of the Border Patrol Unit received information from the community that the two defendants were picking up the illegal goods in a minibus named Garufy, therefore the witness conducted a patrol and stopped the minibus and conducted a check and discovered the 35 kilograms of dried fish and then took the defendants for interrogation in Salele Post.

The public prosecutor alleged that the defendants violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

## **Examination of evidence**

During the trial the defendant Cristina Cardozo confessed to all of the facts in the indictment and stated that after the incident she did not import any goods illegally, and she regretted her actions and promised not to reoffend in the future. The defendant Elisa used here right to remain silent.

## **Final recommendations**

The prosecutor stated that the two defendants were guilty of committing the crime of smuggling, even though the defendant Elisa Cardoso chose the right to be silent however the defendant Cristina Moniz said that the 35 kilograms of dried fish belonged to the two of them, therefore the prosecutor requested for the court to convict the two defendants for their crime.

The defence requested for the court to issue a lenient suspended sentence against the two defendants with the consideration that the defendant Cristina Moniz confessed, regretted her actions and after the incident has not reoffended.

## **Decision**

After evaluating all of the facts, the court found that the two defendants imported 35 kilograms of dried fish via Mota Masin to Timor-Leste, to be sold in Suai Villa.

Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant Cristina confessed, regretted her actions and after this incident did not reoffend, therefore the court concluded this process and ordered the two defendants to pay a fine of US\$30 to be paid in instalments of US\$1.00 per day for 30 days. The court also imposed an alternative penalty of 40 days in prison if the defendants do not pay this fine.

## **6. Crime of smuggling**

Case Number	: 0016/20. PDSUA
Composition of the Court	: Panel
Judges	: Samuel da Costa Pacheco and Benjamin Barros Patricia de Araújo F. B. Magno Xavier
Prosecutor	: Rafael Jeronimo Gusmão
Defence	: Albino de Jesus Pereira
Decision	: Fine of US\$ 30.00

On 8 March 2022 the Suai District Court announced its decision in a case of smuggling involving the defendant Sandriana Nunes Ribeiro who allegedly committed the offence against the State of Timor-Leste in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 9 July 2021, at an unspecified time, the defendant purchased tobacco from an Indonesian person to import it illegally via Mota Masin, there were 7 lots of tobacco and 19 packets, purchased by the defendant for US\$52.50. After purchasing the tobacco the defendant put it on a motorcycle to take it to Suai, however when she arrived at the Koitau intersection the Police Border Patrol Unit (UPF) was conducting a patrol and stopped her and performed a search and discovered the goods, and then the defendant was taken for interrogation at the Salele Post.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2-6 years in prison or a fine.

### **Examination of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, expressed remorse for her actions, was a first time offender and since she was arrested by the police the defendant has not imported any more goods illegally, and she said that circumstances forced her to break the law.

The court did not require the statement of the witness because the defendant confessed all of the facts in the indictment.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime alleged by the prosecution, and also based on the confession of the defendant, however to deter the defendant from reoffending in the future the prosecutor requested for the court to convict the defendant pursuant to Article 316 of the Penal Code.

The defence requested for the court to apply a lenient punishment against the defendant, with consideration of the mitigating circumstances because the defendant confessed, regretted his actions, and promised not to reoffend in the future.

### **Decision**

After evaluating all of the facts, the court found that the defendant purchased tobacco from an Indonesian person to import it illegally via Mota Masin. There were 7 lots of tobacco and 19 packets, that the defendant purchased valued at US\$52.50.

Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant confessed, regretted her actions, was a first time offender, and after the incident did not illegally import any more goods, the court ordered the defendant to pay a fine of US\$30 to be paid in instalments of US\$1.00 per day for 30 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine.

## **7. Crime of homicide and simple offences against physical integrity**

Case Number : 0087/21. BBMLV  
Composition of the Court : Panel  
Judges : Samuel da Costa Pacheco, Benjamin Barros and  
Patricia de Araújo F. B. Magno Xavier  
Prosecutor : Nelson J.S Magno  
Defence : Manuel Amaral  
Decision : Prison sentence of 8 years against the defendant AdS and  
prison sentence of 6 years, suspended for one year against  
the defendant SFD

On 9 March 2022 the Suai District Court conducted a hearing to announce its decision in a case of homicide and simple offences against physical integrity, involving the defendants Sezario Feliciano Pedro and Aderito dos Santos and the victim Nicodemos Gonçalves (deceased), in Bobonaro Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 25 September 2021, at 3:00pm, the host of a party stopped the party where people were dancing, because people were throwing stones at each other next to the party, and then the witness Francisco da Silva Canufu and Mr. Casimiro Lopes went home, however people were throwing stones at each other in front of the house therefore the witness and Mr. Casimiro yelled at them to stop, however they kept throwing stones, so the witness forced Casimiro Lopes into the house and the witness went outside and saw the victim Nicodemos on the main road who was having an argument with Mr. Salestiano, and the defendant Sezario in the dark ran up and punched the victim twice on the back of the neck, and the witness separated them and went back to yell at those who were throwing rocks at each other. Also the defendant Aderito dos Santos Alves was holding a shovel and struck the victim once in the head, and when the witness looked back at the victim he was lying on the road, therefore the witness yelled out and said that the victim Nicodemos had been beaten up

and was lying on the road, then Mr. Casimiro Lopes came outside and the witness Francisco took the victim inside and then contacted the ambulance and the victim was taken to the Maliana Referral Hospital, and when he arrived at the hospital the victim passed away.

The death of the victim caused a huge loss to his wife and children in regards to their day to day life, therefore the defendants were asked to provide compensation to the victim's wife of US\$2,000.00.

The public prosecutor alleged that the defendants violated Article 138 of the Penal Code on homicide that carries a maximum penalty of 8-20 years in prison as well as Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Examination of evidence**

During the trial, the defendant Sezario stated that when he was returning from the party and he reached the scene of the incident the victim Nicodemos and his friends were chasing the defendant and his friend Salestiano, and the defendant stated that at that time the victim Nicodemos was arguing with Salestiano therefore the defendant ran up and punched him twice, however the defendant did not know who he punched because it was at night and very dark and difficult to see. The defendant also stated that after punching a person he and his friend Salestiano ran away and went home. The defendant regretted his actions, and was a first time offender.

The defendant Aderito dos Santos confessed to all of the facts in the indictment and stated that when he was returning from the party and arrived at the scene the victim came from another house and was running and holding a large shovel chasing the defendant and he tried to hit the defendant but the defendant avoided it and took the shovel from the hands of the victim and struck the victim once in the head, and when the victim fell down the defendant became afraid and ran home, and the defendant also stated that previously he did not have a problem with the victims. The defendant regretted his behaviour and was a first time offender.

The witness Francisco da Silva Canufu, who is the cousin of the victim, testified that when they were returning from the party, some people had thrown stones in front of the witness' house, so when the witness arrived home he yelled at them and told them to stop. The witness testified that after that he took Casimiro inside and the witness went outside and saw the victim Nicodemos arguing with Mr. Salestiano however not long after the defendant Sezario struck the victim twice on the back of the neck and therefore the witness separated the victim and the defendant and went back to yell out to the people throwing stones to stop, and then when he looked back at the victim he saw that he was lying on the road, and the witness yelled out that a person had hit Nicodemos

and he was lying on the road, then Mr. Casimiro Lopes came out from the home to help the witness carry the victim who was lying on the road and then he rang the ambulance to take the victim to hospital, however upon arrival at the hospital the victim passed away.

### **Final recommendations**

The prosecutor stated that the defendant Sezario Feliciano Pedro was proven guilty of committing the crime of simple offences against the physical integrity of the victim and therefore the prosecutor requested the court to sentence the defendant to 6 months in prison, suspended for 1 year. The defendant Aderito dos Santos was guilty of committing the crime of homicide, based on the confession of the defendant, and therefore the prosecutor requested for the court to impose a prison sentence of 12 years against the defendant.

Meanwhile, the defence stated that the two defendants confessed all of the facts, however the defendant stated that the incident occurred because the victim and his friends attacked the defendants and the deceased victim took a shovel and tried to strike the defendant Aderito however he missed and the defendant took the shovel from him and struck the victim. The defence stated that the penalty recommended by the prosecution against the defendant was too heavy, therefore the defence requested for the court to sentence the defendant Aderito dos Santos with a prison sentence of 10 years, and for the defendant Sezario to be given a fine.

### **Decision**

After evaluating all of the facts the court found that the defendant Aderito dos Santos was proven guilty of committing the crime of homicide against the victim, based on his confession, whilst the defendant Sezario Feliciano Pedro was found guilty of committing the crime of simple offences against physical integrity against the deceased victim, as was confirmed by the witness.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the two defendants confessed, and regretted their actions, therefore the court concluded the matter and sentenced the defendant Aderito dos Santos to eight years in prison, and sentenced the defendant Sezario Feliciano Pedro to six years in prison, suspended for one year.

### **8. Crime of mistreatment of a spouse characterised as domestic violence**

Case Number : 0012/17.MFMFI  
Composition of the Court : Panel  
Judges : Samuel da Costa Pacheco, Benjamin Barros and  
Patricia de Araújo F. B. Magno Xavier

Prosecutor : Gostavo da Silva  
Defence : Fransisco Caetano Martins  
Decision : Prison sentence of 2 years, suspended for 3 years

On 11 March 2022 the Suai District Court announced its decision in a case of mistreatment of a spouse characterised as domestic violence involving the defendant AdJ who allegedly committed the offence against SdC, his former wife in Manufahi Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 14 August 2017, at 5.00pm, the defendant punched the victim three times on her left ear and punched the victim once in the mouth and pulled her hair. Prior to this assault, the victim travelled in a car to participate in a confirmation mass, and after the victim arrived in Same Vila the defendant committed the assault against the victim without a clear motive.

Previously on an unspecified day and month during 2010 the defendant slapped the victim twice on her left cheek. Prior to this assault the defendant suspected the victim of having an affair with another man, so the defendant assaulted the victim.

Again, on an unspecified day and month in 2010 the defendant used a piece of wood to strike the victim once on her back. Prior to this assault the victim and the defendant argued about the victim having another man, so the defendant committed the assault against the victim.

Then on an unspecified month in 2011 the defendant slapped the victim once on the back of the neck. Prior to this assault the defendant returned home and told the victim to speak up about who she was having an affair with, however the victim remained quiet. So they argued and the victim became angry and poured hot water on the defendant's chest, so the defendant committed these acts against the victim.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse that carries a maximum penalty of 2-6 years in prison.

### **Examination of evidence**

During the trial the defendant completely confessed to the facts set out in the indictment and stated that after the latest incident they tried to resolve the matter in accordance with tradition but were unable to, so they two of them are separated. The defendant also stated that he was a first time offender and regretted his behaviour.

Also the victim confirmed all of the facts in the indictment and stated that she forgave the defendant for his behaviour and reinforced that she is separated from the defendant, however the defendant still looks after their three children who live with the victim.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime of mistreatment of a spouse against the victim who was his ex-wife, and this was confirmed by the victim. The prosecutor stated that crimes against spouses are very high across the entire territory of Timor Leste, therefore the prosecutor requested for the court to convict the defendant based on its discretion, to prevent the defendant from reoffending in the future.

The defence stated that during the trial the defendant confessed all of the facts in the indictment, regretted his behaviour and was a first time offender, so the defence requested for the court to convict the defendant based on Article 145 of the Penal Code.

### **Decision**

After evaluating all of the facts, the court found that the defendant committed the crime of mistreatment of a spouse against the victim, who was his former wife. Based on the facts that were proven, and consideration of the circumstances, namely the defendant confessed all of the facts in the indictment, was a first time offender, regretted his actions, therefore the court concluded this matter and sentenced the defendant to two years in prison, suspended for three years.

### **9. Crime of Sexual Coercion**

Case Number	: 0037/20.VCSLL
Composition of the Court	: Panel
Judges	: Samuel da Costa Pacheco, Benjamin Barros and Patricia de Araújo F. B. Magno Xavier
Prosecutor	: Rafael Jeronimo Gusmão
Defence	: Fransisco Caetano Martins
Decision	: Prison sentence of 3 years, suspended for 4 years

On 15 March 2022 the Suai District Court announced its decision in a case of sexual coercion involving the defendant MdS and the victim AM, which allegedly occurred in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 16 August 2020, at 2pm, the defendant picked up the victim to go to the victim's home, then on the way there the defendant went into somebody's plantation and told the victim therefore "*you die here now,*" and then the defendant dragged the victim into the grass and laid the victim on the ground, then the defendant sat on top of the victim and kissed the victim's genitals, and because she was afraid the victim screamed, but the defendant covered the victim's mouth and said "*the two of us should do it now,*" and the victim said "*I am a woman all alone, don't you care about me*", but the defendant responded "*you will not get pregnant,*" then the defendant squeezed the victim's genitals and took out his genitals to put into the victim's mouth but the victim did not want to open her mouth, therefore the defendant just rubbed his genitals on the victim's mouth. To get away from the defendant the victim pretended to look for her telephone, so the defendant also stood up to look for the telephone and the



victim took her chance and ran to the home of the village chief and then made a report to the police.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape that carries a maximum penalty of 5-15 years in prison.

### **Examination of evidence**

During the trial the defendant partially confessed to the facts set out in the indictment, the defendant stated that he picked up the victim and was heading to her house and on the way there he took the victim into the grass, and the defendant used force to grab the victim's genitals and kissed her on the mouth. Meanwhile he said that the allegation that the defendant took out his genitals and rubbed them on the victim's mouth was not true. The defendant also stated that they resolved this case in accordance with East Timorese culture and the defendant compensated the victim and her family by giving two male buffaloes and US\$1,000.00 and he has reconciled with the victim. The defendant also stated that he was a first time offender, he regretted his actions and acknowledged that his actions were not good.

The victim confirmed all of the facts in the indictment and reinforced that the defendant's statement that the matter had been resolved and the defendant gave two male buffaloes and US\$ 1,000.00 to the victim and her family, however even though they have reconciled the victim felt ashamed when she saw the victim.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, even though the defendant denied some facts, however the victim confirmed the charges of the prosecutor, and therefore the prosecutor asked for the court to sentence the defendant to 8 years in prison.

The defence stated that the defendant testified about his actions and after this incident they reconciled and the defendant compensated the victim and her family, therefore the defence requested for the court to convict the defendant based on the court's discretion.

### **Decision**

After evaluating all of the facts, the court amended the charges from Article 172 of the Penal Code on the crime of rape which carries a sentence of 5 - 15 years in prison to Article 171 of the Penal Code on sexual coercion which carries a sentence of 2 – 8 years in prison, based on the facts that were proven, namely that the defendant grabbed the victim's genitals and rubbed his own genitals on the victim's mouth.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant was a first time offender, regretted his behaviour, has reconciled with the court, therefore the court concluded this case and imposed a prison sentence of 3 years against the defendant, suspended for 4 years.

## **Civil case of regulation of the exercise of parental authority**

Case Number :0077/21. CVTDS  
Composition of the Court : Single Judge  
Judge : José Maria Araújo  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Albino de Jesus Pereira  
Decision : Endorsing withdrawal of complaint

On 23 March 2022 the Suai District Court attempted conciliation in a case of regulation of the exercise of parental authority involving EAL aged 9 months and the male respondent JdA and female respondent JSA, who are the child's parents, in Ainaro Municipality.

### **Circumstances and background**

On an unspecified date and month in 2020 the male respondent and female respondent had a relationship and lived together as husband and wife, and then the female respondent became pregnant and gave birth on 1 June 2021, and after the child was born the family of the female respondent asked the male respondent to look after the child but the male respondent did not want to. Therefore, the prosecutor representing the minor filed a case against the male respondent to look after the needs of the minor.

This case related to the exercise of parental authority pursuant to Articles 1757, 1758(1), 1759, 1762, 1765, 1786, 1787(2), 1782, 1804 and 1805 of the Civil Code on the responsibility of parents for minors.

### **Attempted conciliation**

During the attempted conciliation the female respondent told the court that the minor is now living with the female respondent and the male respondent has never provided any alimony, therefore the female respondent requested for the male respondent to provide alimony for the minor every month totalling US\$30. However the male respondent requested for the amount to be reduced to US\$15, because the male respondent is not working. However, the female respondent maintained the request for the male respondent to provide US\$30 every month. Therefore, the male respondent stated that he was willing to provide alimony for the minor every month totalling US\$30 starting from the following month into the bank account of the female respondent.

In the end the two parties agreed for the minor to continue living with the female respondent, and the respondent is free to visit the minor. Regarding Christmas and the New Year, it will depend on an agreement between the male respondent and the female respondent.

### **Final recommendations**

The prosecutor representing the minor requested for the court to endorse the agreement made by the two respondents regarding how they will look after the minor.

## **Decision**

Based on the agreement made by the two parties regarding alimony, residence, and visiting schedule, the court concluded this matter and endorsed the agreement.

## **10. Crime of simple offences against physical integrity characterized as domestic violence**

Case Number : 0007/21.ANMBS  
Composition of the Court : Single Judge  
Judge : Samuel da Costa Pacheco  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Domingos dos Santos  
Decision : 2 months in prison, suspended for 1 year

On 25 March 2022 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IST who allegedly committed the offence against his wife in Ainaro District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 22 March 2021, at 8pm, the defendant slapped the victim once above her eye which caused pain. Prior to this assault the defendant went to drink alcohol with his friends and came home at night, so the victim scolded him and said you should come home earlier, not late at night, so the defendant and the victim argued and the assault took place and then the victim received treatment at the Maubisse Referral Hospital.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2(a), 3(a), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, and stated that after the incident he reconciled with the victim and has not hit her again, and he was a first time offender.

Also the victim confirmed the facts in the indictment and reinforced the statement of the defendant that he only hit the victim once and after the incident the defendant did not hit the victim again.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the confirmation of the victim, however to deter such crimes from occurring in the future, the prosecutor requested for the court to convict the defendant in accordance with the court's discretion.

The defence requested for the court to issue an admonishment against the defendant because the defendant confessed, regretted his behaviour, has reconciled with the victim and after the incident the defendant did not hit the victim again.

### **Decision**

After evaluating all of the facts, the court found that the defendant slapped the victim once which caused pain.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender, and has reconciled with the victim, therefore the court concluded this case and imposed a prison sentence of 2 months against the defendant, suspended for 1 year.

### **Crime of simple offences against physical integrity characterized as domestic violence and sexual acts with an adolescent**

Case Number	: 00051/17.CVSUI
Composition of the Court	: Single Judge
Judge	: Benjamin Barros
Prosecutor	: Rafael Jeronimo Gusmão
Defence	: Manuel Amaral
Decision	: Prison sentence of 1 year six months, suspended for 2 years and acquitted

On 25 March 2022 the Suai District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence and sexual acts against an adolescent involving the defendant FA who allegedly committed the offence against his former wife, in Covalima Municipality.

### **Charges of the Prosecutor**

On 18 June 2018, at 7pm, the defendant slapped the victim twice on her left cheek. Prior to this assault, the defendant and the victim argued because the victim did not feed their pig, and then the assault took place.

During the investigation phase the prosecutor found out that the defendant and the victim got together in July 2014, and at that time the victim was aged 14.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison, as well as Articles 2(a), 3(b), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 178 of the Penal Code on sexual acts with an adolescent that carries a maximum penalty of 5 years in prison.

### **Examination of evidence**

During the trial, the defendant used his right to remain silent, whilst the victim was not present.

The witness MdA, who is the cousin of the victim, testified that when the incident occurred the victim ran away to the witness' house and the witness testified that in the evening the victim came to the witness' house and told him that the defendant had slapped the victim, but the witness did not ask how many times. The witness stated that one week after the incident the victim fled to her parents across the river in Betun.

### **Final recommendations**

The public prosecutor stated that the defendant was brought to trial because the defendant committed the crime of simple offences against physical integrity against the victim characterized as domestic violence, even though during the trial the defendant chose the right to be silent and the victim was not present, however the witness confirmed the facts about the simple offences against physical integrity characterized as domestic violence, and the prosecutor stated that the crime of sexual acts with an adolescent were based on the victim's certificate in the case file, and the prosecutor requested for the court to impose a prison sentence of one year, suspended for one year for this crime, and for the crime of simple offences against physical integrity the prosecutor requested for the court to convict the defendant based on the discretion of the court.

The defence state that during the trial the defendant chose the right to be silent and the victim was not present, and the defence stated that regarding the charge of sexual acts with an adolescent the prosecutor formulated the charges but did not provide essential documents relating to sexual acts with an adolescent, for example the victim's certificate was not contained in the case file, therefore the defence requested for the court to acquit the defendant from the crime of sexual acts with an adolescent, and for the crime of simple offences against physical integrity, the defence requested for the court to impose a fine.

### **Decision**

After evaluating all of the facts, the court found that the defendant slapped the victim twice on her left cheek, meanwhile regarding the crime of sexual acts with an adolescent the court found that the charges had not been proven, because during the trial there was no testimony that the victim was aged 14, and the case file did not contain any documents that said that the victim was aged 14.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant was a first time offender, the court concluded this case and imposed a prison sentence of 1 year six months against the defendant, suspended for 2 years, and for the crime of sexual acts with an adolescent the court acquitted the defendant.

**For more information, please contact:**

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